

By: Fraser

S.B. No. 492

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a distributed solar generation incentive program.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 31.002(6), Utilities Code, is amended to read as follows:

(6) "Electric utility" means a person or river authority that owns or operates for compensation in this state equipment or facilities to produce, generate, transmit, distribute, sell, or furnish electricity in this state. The term includes a lessee, trustee, or receiver of an electric utility and a recreational vehicle park owner who does not comply with Subchapter C, Chapter 184, with regard to the metered sale of electricity at the recreational vehicle park. The term does not include:

(A) a municipal corporation;

(B) a qualifying facility;

(C) a power generation company;

(D) an exempt wholesale generator;

(E) a power marketer;

(F) a corporation described by Section 32.053 to the extent the corporation sells electricity exclusively at wholesale and not to the ultimate consumer;

(G) an electric cooperative;

(H) a retail electric provider;

1 (I) this state or an agency of this state; ~~[or]~~

2 (J) a person not otherwise an electric utility
3 who:

4 (i) furnishes an electric service or
5 commodity only to itself, its employees, or its tenants as an
6 incident of employment or tenancy, if that service or commodity is
7 not resold to or used by others;

8 (ii) owns or operates in this state
9 equipment or facilities to produce, generate, transmit,
10 distribute, sell, or furnish electric energy to an electric
11 utility, if the equipment or facilities are used primarily to
12 produce and generate electric energy for consumption by that
13 person; or

14 (iii) owns or operates in this state a
15 recreational vehicle park that provides metered electric service in
16 accordance with Subchapter C, Chapter 184; or

17 (K) a distributed renewable generation owner, as
18 defined by Section 39.916.

19 SECTION 2. Section 39.002, Utilities Code, is amended to
20 read as follows:

21 Sec. 39.002. APPLICABILITY. Except as provided by this
22 section, this ~~[This]~~ chapter, other than Sections 39.155,
23 39.157(e), 39.203, 39.903, 39.904, 39.9051, 39.9052, ~~[and]~~
24 39.914(e), and 39.9156, does not apply to a municipally owned
25 utility or to an electric cooperative. Sections 39.157(e), 39.203,
26 and 39.904~~[, however,]~~ apply only to a municipally owned utility or
27 an electric cooperative that is offering customer choice. Section

1 39.916 applies to an electric cooperative. Section 39.9161 applies
2 to a municipally owned utility. If there is a conflict between the
3 specific provisions of this chapter and any other provisions of
4 this title, except for Chapters 40 and 41, the provisions of this
5 chapter control.

6 SECTION 3. Subchapter Z, Chapter 39, Utilities Code, is
7 amended by adding Sections 39.9155 and 39.9156 to read as follows:

8 Sec. 39.9155. SOLAR GENERATION INCENTIVE PROGRAM. (a) In
9 this section:

10 (1) "Distributed solar generation" means distributed
11 renewable generation, as defined by Section 39.9161, using solar
12 energy technology.

13 (2) "Owner of distributed solar generation" includes a
14 retail electric customer who contracts with another person to
15 install or maintain distributed solar generation on the customer's
16 side of the meter, regardless of whether the customer takes
17 ownership of the installed distributed solar generation.

18 (3) "Surplus electricity" means electricity generated
19 by distributed solar generation that is not consumed at the place
20 the distributed solar generation is installed but flows onto the
21 electric distribution system.

22 (b) It is the goal of the legislature that electric
23 utilities administer incentive programs for residential and
24 commercial customers to increase the amount of distributed solar
25 generation, utility scale solar generation capacity, and energy
26 storage capacity installed in this state in a cost-effective,
27 market-neutral, and nondiscriminatory manner.

1 (c) The commission by rule shall:

2 (1) establish a solar generation incentive program, to
3 be implemented by electric utilities;

4 (2) oversee the implementation of the program required
5 by Subdivision (1); and

6 (3) establish procedures to achieve the goal described
7 by Subsection (b).

8 (d) The rules adopted under Subsection (c) must include
9 provisions:

10 (1) for recovery of the cost of electric utility
11 programs authorized by this section through nonbypassable fees,
12 which may not exceed:

13 (A) 20 cents per month for residential customers;

14 (B) \$2 per month for commercial customers; and

15 (C) \$20 per month for industrial customers;

16 (2) for rebates to customers to defray the cost of
17 installing distributed solar generation as provided by Subsection
18 (f);

19 (3) to require that customers in the Electric
20 Reliability Council of Texas who install distributed solar
21 generation will have the option to be equipped with an advanced
22 meter and appropriate procedures to give the customers an option to
23 settle on the basis of their real-time energy usage instead of on
24 the basis of a load profile and to receive the real-time energy
25 price for surplus electricity exported to the grid by the customer;

26 (4) to require:

27 (A) a retail electric provider to offer service

1 to a retail electric service customer who has installed distributed
2 solar generation; and

3 (B) a retail electric provider that provides
4 service to a retail electric service customer who has installed
5 distributed solar generation to:

6 (i) purchase the customer's surplus
7 electricity at a price equal to or greater than a fair market price
8 determined in accordance with this section; or

9 (ii) credit the customer's bill for the
10 billing cycle in which the customer's surplus electricity is
11 generated at a price equal to or greater than the equivalent of a
12 fair market price determined in accordance with this section and
13 allow any unused credit on the customer's bill to be carried forward
14 to subsequent billing cycles for the customer;

15 (5) for appropriate net metering policies and retail
16 rate options for customers served by electric utilities outside the
17 Electric Reliability Council of Texas; and

18 (6) for the utility scale solar and energy storage
19 capacity program provided by Subsection (g).

20 (e) Electric utilities may not assess the fees authorized by
21 this section after the fifth anniversary of the date the program
22 required by this section is established by commission rule, except
23 as provided by Subsection (l). The commission shall ensure that all
24 fees collected under this section are used for the programs
25 authorized by this section, except that utilities may not use more
26 than 2.5 percent of the funds collected for administrative expenses
27 related to this section, as approved by the commission.

1 (f) The commission shall set a rebate amount for the
2 installation of distributed solar generation capacity. The
3 commission shall periodically adjust the rebate amount such that
4 the quantity of solar generation capacity installed under this
5 section is maximized, but shall reduce rebate amounts by not less
6 than five percent per year. The commission may set a higher rebate
7 amount for solar generation capacity using equipment manufactured
8 wholly or substantially in this state, provided that the higher
9 amount is not more than 20 percent higher than the rebate applicable
10 to all other solar generation capacity. The commission may provide
11 for rebates to be provided directly to customers or to qualified
12 installers of solar generation equipment. Unless adjusted by the
13 commission, the initial rebates shall be:

14 (1) \$2.40 per watt for installations on residential
15 buildings;

16 (2) \$1.50 per watt for installations on commercial
17 buildings; and

18 (3) \$1 per watt for installations at industrial
19 facilities.

20 (g) The commission may direct not more than 70 percent of
21 the money collected from the fees authorized by this section to
22 utility scale solar generation capacity if the commission
23 determines such projects are more cost-effective per megawatt of
24 installed capacity than distributed solar generation or will
25 provide a greater benefit to the reliability of the electric grid.
26 The commission may establish rebate amounts not to exceed \$1 per
27 watt for utility scale solar generation projects or may consider a

1 competitive bidding process, a reverse auction, or other methods to
2 award money in order to maximize the quantity of generation
3 capacity installed under this section. If the demand for money
4 under this section exceeds the money available, the commission
5 shall consider the following in determining which projects receive
6 subsidies:

7 (1) projects that, to be commercially viable, require
8 the lowest amount of subsidy per megawatt of installed capacity;

9 (2) projects that use the transmission capacity built
10 under Section 39.904(g) and that require minimal additional
11 transmission facilities;

12 (3) projects that enhance the reliability of the
13 transmission and distribution grid or defer the need for additional
14 transmission and distribution infrastructure;

15 (4) projects in development that can use rebates to
16 secure additional financing;

17 (5) projects that provide maximum output during
18 periods when electricity demand is highest in this state; and

19 (6) projects that can provide ancillary services to
20 the electric grid.

21 (h) The commission shall develop a "Made in Texas"
22 certification program for energy products useful for distributed
23 solar generation. The commission shall post a list of energy
24 products that are wholly or substantially produced in this state
25 and shall conduct education efforts to inform customers of the
26 availability of those energy products. The commission may partner
27 or contract with third parties or nonprofit organizations to

1 achieve the goals of this subsection.

2 (i) Notwithstanding any other provision of this title, a
3 retail electric provider or any other person may own distributed
4 solar generation and enter into a contract with the retail customer
5 on whose property the solar generation capacity is located to lease
6 the solar generation equipment or sell the generated output to the
7 retail customer or to that customer's retail electric provider. An
8 owner of the distributed solar generation is not an electric
9 utility and is not required to register with the commission as a
10 power generation company or self-generator unless the commission
11 determines that a registration system of that type is necessary to
12 maintain the reliability of the distribution grid. The commission
13 may establish appropriate reporting and other requirements for an
14 owner of distributed solar generation to be eligible to earn
15 renewable energy credits.

16 (j) The commission, in consultation with the Electric
17 Reliability Council of Texas, shall conduct and make available the
18 results of a study indicating geographic areas where utility scale,
19 non-wind, renewable energy generation capacity can be located with
20 minimal need for additional transmission facilities.

21 (k) The commission is not required to conduct its selection
22 of projects under Subsection (g) by contested case proceedings.
23 The commission may appoint an advisory committee to assist the
24 commission in evaluating proposals made under Subsection (g).
25 Members of an advisory committee appointed under this subsection
26 may not have a financial interest in any of the proposals. After
27 the conclusion of a process authorized by Subsection (g), the

1 commission shall release a complete record of the proposals and of
2 the evaluation of the factors required to be considered under
3 Subsection (g).

4 (1) The commission may extend the fees and program
5 authorized by this section for an additional five years if the
6 commission finds that:

7 (1) a substantial amount of manufacturing of solar
8 generation products has begun in Texas during the initial five-year
9 program; and

10 (2) the extension of the program's fees does not
11 present an undue burden to customers.

12 (m) The commission by rule shall provide a methodology for
13 determining a fair market value price for surplus electricity. The
14 fair market value price may not be less than an amount equal to 80
15 percent of the customer's applicable retail rate less any
16 nonbypassable charges. The commission shall post on the
17 commission's Internet website the fair market value prices derived
18 from the methodology provided under this subsection.

19 (n) In an area in which customer choice has been introduced,
20 a retail electric provider shall pay an owner of distributed solar
21 generation for surplus electricity:

22 (1) the local market clearing price for energy at the
23 time of day the surplus electricity is made available to the grid;
24 or

25 (2) a price that is not less than the fair market value
26 price determined in accordance with the methodology provided under
27 Subsection (m).

1 (o) An owner of distributed solar generation is qualified to
2 be paid for surplus electricity under Subsection (n) only if the
3 owner's distributed solar generation:

4 (1) is installed on a residential retail electric
5 customer's side of the meter;

6 (2) has a generating capacity of not greater than 50
7 kilowatts; and

8 (3) is rated to produce an amount of electricity less
9 than or equal to the amount of electricity the residential retail
10 electric customer for whom the distributed solar generation is
11 installed is reasonably expected to consume.

12 (p) The commission by rule shall require a retail electric
13 provider that purchases a customer's surplus electricity to include
14 on each bill of the customer line items to inform the owner of:

15 (1) the amount of surplus electricity, in terms of
16 kilowatt hours;

17 (2) the price credited to the owner for each kilowatt
18 hour; and

19 (3) the amount of any credit for surplus electricity
20 applied or carried forward from the previous billing period.

21 (q) Until the commission provides the methodology under
22 Subsection (m) for determining a fair market value price, a retail
23 electric provider shall pay a price for surplus electricity that is
24 not less than five cents per kilowatt hour.

25 (r) If, at the time distributed solar generation is
26 installed on a retail electric customer's side of the meter, the
27 estimated annual amount of electric energy to be generated by the

1 distributed solar generation is less than or equal to the
2 customer's estimated annual electric energy consumption, the
3 commission may not consider the owner of distributed solar
4 generation to be a power generation company or require the owner of
5 distributed solar generation to register as a power generation
6 company.

7 Sec. 39.9156. SOLAR GENERATION INCENTIVE PROGRAMS. (a) It
8 is the goal of the legislature that:

9 (1) electric cooperatives and municipally owned
10 utilities administer incentive programs that increase the amount of
11 solar generation capacity installed in this state in a
12 cost-effective, market-neutral, and nondiscriminatory manner;

13 (2) customers of electric cooperatives and
14 municipally owned utilities will have access to incentives for the
15 installation of distributed solar generation as defined by Section
16 39.9155(a); and

17 (3) electric cooperatives and municipally owned
18 utilities expend funds to increase the amount of solar generation
19 capacity at a total funding level consistent with the requirements
20 for electric utilities in this state under Sections 39.9155(d)(1)
21 and (e).

22 (b) Beginning not later than September 1, 2014, an electric
23 cooperative or municipally owned utility must report annually to
24 the state energy conservation office, in a form and manner
25 determined by the office, information regarding the efforts of the
26 municipally owned utility or electric cooperative related to this
27 section.

1 (c) This section does not prevent the governing body of an
2 electric cooperative or municipally owned utility from adopting
3 rules, programs, or incentives to encourage or provide for the
4 installation of more solar generation capacity than the goals
5 established by Section 39.9155 or rules adopted under that section.

6 (d) An electric cooperative or municipally owned utility
7 may recover the costs required by this section through a
8 nonbypassable fee consistent with that authorized by the commission
9 for electric utilities under Section 39.9155(d)(1) or another cost
10 recovery mechanism as determined by the governing body of the
11 electric cooperative or municipally owned utility.

12 (e) An electric cooperative or municipally owned utility is
13 entitled to have funding for solar generation capacity provided by
14 an electric cooperative or municipally owned utility after May 1,
15 2007, counted toward its compliance with this section.

16 (f) This section applies only to an electric cooperative or
17 municipally owned utility with retail sales of more than 500,000
18 megawatt hours in 2007.

19 SECTION 4. The heading to Section 39.916, Utilities Code,
20 is amended to read as follows:

21 Sec. 39.916. [~~INTERCONNECTION OF~~] DISTRIBUTED RENEWABLE
22 GENERATION.

23 SECTION 5. Section 39.916, Utilities Code, is amended by
24 amending Subsections (a), (b), (c), (e), (f), (h), and (j) and
25 adding Subsections (d-1), (k), (l), (m), (n), (o), (p), (q), and (r)
26 to read as follows:

27 (a) In this section:

1 (1) "Distributed renewable generation" means electric
2 generation with a capacity of not more than 2,000 kilowatts
3 provided by a renewable energy technology, as defined by Section
4 39.904, that is installed on a retail electric customer's side of
5 the meter.

6 (2) "Distributed renewable generation owner" means:

7 (A) the owner of distributed renewable
8 generation;

9 (B) a retail electric customer who contracts with
10 another person to finance, install, or maintain distributed
11 renewable generation on the customer's side of the meter,
12 regardless of whether the customer takes ownership of the installed
13 distributed renewable generation; or

14 (C) a person who by contract is assigned
15 ownership rights to distributed renewable generation located at the
16 premises of a customer on the customer's side of the meter.

17 (3) "Interconnection" means the right of a distributed
18 renewable generation owner to physically connect distributed
19 renewable generation to an electricity distribution system, and the
20 technical requirements, rules, or processes for the connection.

21 (b) A transmission and distribution utility, electric
22 cooperative, or electric utility shall allow interconnection if:

23 (1) the distributed renewable generation to be
24 interconnected has a five-year warranty against breakdown or undue
25 degradation; and

26 (2) the rated capacity of the distributed renewable
27 generation does not exceed the transmission and distribution

1 utility, electric cooperative, or electric utility service
2 capacity.

3 (c) A customer may request interconnection by filing an
4 application for interconnection with the transmission and
5 distribution utility, electric cooperative, or electric
6 utility. Procedures of a transmission and distribution utility,
7 electric cooperative, or electric utility for the submission and
8 processing of a customer's application for interconnection shall be
9 consistent with rules adopted by the commission regarding
10 interconnection.

11 (d-1) If, at the time distributed renewable generation is
12 installed on a retail electric customer's side of the meter, the
13 estimated annual amount of electric energy to be produced by the
14 distributed renewable generation is less than or equal to the
15 customer's estimated annual electric energy consumption, the
16 commission may not consider the distributed renewable generation
17 owner to be a power generation company or require the distributed
18 renewable generation owner to register as a power generation
19 company.

20 (e) A transmission and distribution utility, electric
21 cooperative, electric utility, or retail electric provider may not
22 require a distributed renewable generation owner whose distributed
23 renewable generation meets the standards established by rule under
24 Subsection (d) to purchase an amount, type, or classification of
25 liability insurance the distributed renewable generation owner
26 would not have in the absence of the distributed renewable
27 generation.

1 (f) A transmission and distribution utility, electric
2 cooperative, or electric utility shall make available to a
3 distributed renewable generation owner for purposes of this section
4 metering required for services provided under this section,
5 including separate meters that measure the load and generator
6 output or a single meter capable of measuring in-flow and out-flow
7 at the point of common coupling meter point. The distributed
8 renewable generation owner must pay the differential cost of the
9 metering unless the meters are provided at no additional cost.
10 Except as provided by this section, Section 39.107 applies to
11 metering under this section.

12 (h) On the request of a distributed renewable generation
13 owner and in accordance with this section, an [~~An~~] electric
14 utility, electric cooperative, or retail electric provider shall
15 [~~may~~] contract with a distributed renewable generation owner so
16 that:

17 (1) surplus electricity produced by distributed
18 renewable generation is made available for sale to the transmission
19 grid and distribution system; and

20 (2) the fair market [~~net~~] value of that surplus
21 electricity is credited to the distributed renewable generation
22 owner.

23 (j) For a distributed renewable generation owner who
24 chooses to sell the owner's surplus electricity in an area [~~owners~~
25 ~~in areas~~] in which customer choice has been introduced, the
26 distributed renewable generation owner must sell the owner's
27 surplus electricity produced to the retail electric provider that

1 serves the [~~distributed renewable generation~~] owner's load. For a
2 distributed renewable generation owner who chooses to sell the
3 owner's surplus electricity in an area in which customer choice has
4 not been introduced, the owner must sell the owner's surplus
5 electricity to the electric utility or electric cooperative that
6 serves the owner's load at a value that is greater than or equal to
7 the avoided cost of the electric utility or electric cooperative,
8 as determined in accordance with commission rules, and, for an
9 electric cooperative, that is at least 4.5 cents per kilowatt hour
10 regardless of the electric cooperative's avoided cost. A
11 distributed generation owner who chooses to sell the owner's
12 surplus electricity in an area in which customer choice has been
13 introduced must sell the owner's surplus electricity at a fair
14 market value, determined in accordance with this section, [~~agreed~~
15 ~~to between the distributed renewable generation owner and the~~
16 ~~provider that serves the owner's load which may include, but is not~~
17 ~~limited to, an agreed value based on the clearing price of energy at~~
18 ~~the time of day that the electricity is made available to the grid]~~
19 or the owner's surplus electricity may be exchanged for [it may be]
20 a credit applied at a fair market value, determined in accordance
21 with this section, to an account during a billing period that may be
22 carried over to subsequent billing periods until the credit has
23 been redeemed. The independent organization identified in Section
24 39.151 shall develop procedures so that the amount of electricity
25 purchased from a distributed renewable generation owner under this
26 section is accounted for in settling the total load served by the
27 provider that serves that owner's load [by January 1, 2009]. A

1 distributed renewable generation owner requesting [~~net~~] metering
2 services for purposes of this section must have metering devices
3 capable of providing measurements consistent with the independent
4 organization's settlement requirements.

5 (k) In areas in which customer choice has been introduced,
6 the commission by rule shall provide a methodology for determining
7 a fair market value price for surplus electricity generated by
8 distributed renewable generation that provides a monthly or longer
9 periodic proxy for the market clearing price. The methodology must
10 not allow the aggregate fair market value of surplus electricity in
11 any billing period to be less than zero. The commission shall
12 review the methodology periodically. The commission shall post on
13 its Internet website the fair market value prices derived from the
14 methodology provided under this subsection.

15 (l) In an area in which customer choice has been introduced,
16 a retail electric provider shall pay a distributed renewable
17 generation owner for surplus electricity generated by the owner's
18 distributed renewable generation the local market clearing price
19 for energy at the time of day the surplus electricity is made
20 available to the grid or a price that is not less than the fair
21 market value price determined in accordance with the methodology
22 provided under Subsection (k).

23 (m) In areas in which customer choice has been introduced, a
24 distributed renewable generation owner is qualified to be paid for
25 surplus electricity under Subsection (h), (j), (k), or (l) only if:

26 (1) the owner's distributed renewable generation is:
27 (A) rated to produce an amount of electricity

1 that is less than or equal to the amount of electricity the retail
2 electric customer for whom the distributed renewable generation is
3 installed is reasonably expected to consume; and

4 (B) installed on the customer's side of the meter
5 for a residential retail electric customer or a retail electric
6 customer who is a public school or a church; and

7 (2) the generating capacity of the distributed
8 renewable generation does not exceed:

9 (A) 10 kilowatts for a residential retail
10 electric customer;

11 (B) 150 kilowatts for a church retail electric
12 customer; or

13 (C) 250 kilowatts for a public school retail
14 electric customer.

15 (n) A distributed renewable generation owner who does not
16 meet the qualifications prescribed by Subsection (m) will be paid
17 for the owner's surplus electricity or will have the owner's surplus
18 electricity exchanged for a credit to the owner's electric service
19 account at a value to which the owner and the provider that serves
20 the owner's load agree.

21 (o) The commission by rule may establish standards
22 distributed renewable generation must meet to be eligible for
23 compensation under this section, including interconnection
24 standards and standards for the generating equipment. The
25 standards must be designed so that small-scale distributed
26 renewable generation at residential addresses is eligible for
27 compensation.

1 (p) The commission by rule shall require an electric
2 utility, retail electric provider, or electric cooperative that
3 purchases surplus electricity from distributed renewable
4 generation to include on each bill or separate statement to the
5 distributed renewable generation owner line items to inform the
6 owner of:

7 (1) the amount of surplus electricity from the
8 distributed renewable generation, in terms of kilowatt hours;

9 (2) the price credited to or the payment made to the
10 owner for each kilowatt hour; and

11 (3) the amount of any credit for surplus electricity
12 applied or carried forward from the previous billing period.

13 (q) Until the commission provides the methodology under
14 Subsection (k) for determining a fair market value price in an area
15 open to competition, a retail electric provider shall pay a price
16 for surplus electricity that is not less than five cents per
17 kilowatt hour for electricity generated by a solar energy
18 technology or not less than four cents per kilowatt hour for
19 electricity generated by another renewable energy technology.

20 (r) This section expires September 2, 2016.

21 SECTION 6. Subchapter Z, Chapter 39, Utilities Code, is
22 amended by adding Sections 39.9161, 39.917, and 39.918 to read as
23 follows:

24 Sec. 39.9161. DISTRIBUTED RENEWABLE GENERATION WITHIN
25 MUNICIPALLY OWNED UTILITIES. (a) In this section:

26 (1) "Distributed renewable generation" means electric
27 generation with a capacity of not more than 2,000 kilowatts

1 provided by a renewable energy technology, as defined by Section
2 39.904, that is installed on a retail electric customer's side of
3 the meter.

4 (2) "Distributed renewable generation owner" means:

5 (A) the owner of distributed renewable
6 generation;

7 (B) a retail electric customer who contracts with
8 another person to finance, install, or maintain distributed
9 renewable generation on the customer's side of the meter,
10 regardless of whether the customer takes ownership of the installed
11 distributed renewable generation; or

12 (C) a person who by contract is assigned
13 ownership rights to distributed renewable generation located at the
14 premises of a customer on the customer's side of the meter.

15 (3) "Interconnection" means the right of a distributed
16 renewable generation owner to physically connect distributed
17 renewable generation to an electricity distribution system, and the
18 technical requirements, rules, or processes for the connection.

19 (b) It is the goal of the legislature that municipally owned
20 utilities shall allow interconnection and net metering by
21 distributed renewable generation owners.

22 (c) A municipally owned utility shall provide its customers
23 access to the interconnection and net metering of distributed
24 renewable generation.

25 (d) The governing body of a municipally owned utility shall
26 provide oversight and adopt rates, rules, and procedures to allow
27 interconnection and provide net metering consistent with the goals

1 of Section 39.916. This section does not prevent the governing body
2 of a municipally owned utility from adopting rates, rules, and
3 procedures for interconnection and net metering that are more
4 favorable to a distributed renewable generation owner than those
5 established by Section 39.916 or rules of the commission.

6 (e) If a municipally owned utility implements customer
7 choice under Chapter 40, the commission:

8 (1) has jurisdiction over the municipally owned
9 utility's distributed renewable generation interconnection and net
10 metering; and

11 (2) by rule shall establish minimum standards and
12 procedures for interconnection and net metering by the municipally
13 owned utility.

14 (f) A municipally owned utility that had retail sales of
15 500,000 megawatt hours or greater in 2008 shall file its
16 interconnection and net metering rates, rules, and procedures with
17 the state energy conservation office not later than January 1,
18 2012, and shall make timely updates to the utility's filed rates,
19 rules, and procedures.

20 (g) A municipally owned utility that has adopted rules and
21 procedures related to interconnection and net metering shall make
22 available, on a publicly accessible Internet website or at the
23 customary location for publicly posted notices:

24 (1) information on the purchase price offered per
25 kilowatt hour for surplus electricity produced by distributed
26 renewable generation; and

27 (2) information instructing customers with

1 distributed renewable generation how to request and obtain the
2 purchase rates offered.

3 (h) The governing body of a municipally owned utility that
4 had retail sales of less than 500,000 megawatt hours in 2008 shall
5 provide oversight and adopt rules and procedures related to
6 interconnection and net metering of distributed renewable
7 generation systems sized with a generating capacity deemed
8 appropriate by the municipally owned utility on or before the 120th
9 day after the date the governing body receives a bona fide request
10 for interconnection.

11 Sec. 39.917. INFORMATION ON INTERNET REGARDING PURCHASE OF
12 SURPLUS ELECTRICITY PRODUCED BY DISTRIBUTED RENEWABLE GENERATION.

13 (a) In this section:

14 (1) "Distributed renewable generation" means electric
15 generation with a capacity of not more than 2,000 kilowatts
16 provided by a renewable energy technology, as defined by Section
17 39.904, that is installed on a retail electric customer's side of
18 the meter.

19 (2) "Distributed renewable generation owner" means:

20 (A) the owner of distributed renewable
21 generation;

22 (B) a retail electric customer who contracts with
23 another person to finance, install, or maintain distributed
24 renewable generation on the customer's side of the meter,
25 regardless of whether the customer takes ownership of the installed
26 distributed renewable generation; or

27 (C) a person who by contract is assigned

1 ownership rights to distributed renewable generation located at the
2 premises of a customer on the customer's side of the meter.

3 (b) On the Internet website found at
4 <http://www.powertochoose.org>, the commission shall provide for
5 access to easily comparable information regarding retail electric
6 providers' offers to residential distributed renewable generation
7 owners for their surplus electricity, including information
8 regarding their contract terms, for each retail electric provider
9 using that website.

10 (c) On the Internet website found at
11 <http://www.powertochoose.org>, the commission shall provide for
12 access to easily comparable information regarding offers of
13 renewable energy credit marketers to residential distributed
14 renewable generation owners, for each renewable energy credit
15 marketer using that website.

16 (d) The commission by rule shall require electric
17 utilities, electric cooperatives, and retail electric providers to
18 provide on publicly accessible Internet websites information on
19 purchase price offers per kilowatt hour for surplus electricity
20 produced by residential distributed renewable generation and
21 information instructing customers with distributed renewable
22 generation on how to request and obtain the purchase rates offered.

23 Sec. 39.918. INFORMATION ON INTERNET REGARDING PURCHASE OF
24 SURPLUS ELECTRICITY PRODUCED BY DISTRIBUTED SOLAR GENERATION. (a)
25 In this section, "distributed solar generation," "owner of
26 distributed solar generation," and "surplus electricity" have the
27 meanings assigned by Section 39.9155(a).

1 (b) On the Internet website found at
2 http://www.powertochoose.org, the commission shall provide for
3 access to easily comparable information regarding retail electric
4 providers' offers to owners of distributed solar generation for
5 their surplus electricity, including information regarding their
6 contract terms, for each retail electric provider using that
7 website.

8 (c) On the Internet website found at
9 http://www.powertochoose.org, the commission shall provide for
10 access to easily comparable information regarding offers of
11 renewable energy credit marketers to owners of distributed solar
12 generation, for each renewable energy credit marketer using that
13 website.

14 (d) The commission by rule shall require electric
15 utilities, electric cooperatives, and retail electric providers to
16 provide on publicly accessible Internet websites information on
17 purchase price offers per kilowatt hour for surplus electricity and
18 information instructing customers with distributed solar
19 generation on how to request and obtain the purchase rates offered.

20 SECTION 7. Chapter 202, Property Code, is amended by adding
21 Section 202.010 to read as follows:

22 Sec. 202.010. REGULATION OF SOLAR ENERGY DEVICES. (a) In
23 this section, "solar energy device" has the meaning assigned by
24 Section 171.107, Tax Code.

25 (b) Except as otherwise provided by this section, a property
26 owners' association may not include or enforce a provision in a
27 dedicatory instrument that prohibits or restricts a property owner

1 from installing a solar energy device.

2 (c) A provision that violates Subsection (b) is void.

3 (d) This section does not prohibit the inclusion or
4 enforcement of a provision in a dedicatory instrument that
5 prohibits a solar energy device that:

6 (1) a court determines threatens the public health or
7 safety;

8 (2) a court determines violates a law;

9 (3) is located on property owned or maintained by the
10 property owners' association;

11 (4) is located on property owned in common by the
12 members of the property owners' association; or

13 (5) is located in an area on the property owner's
14 property other than:

15 (A) on the roof of the home; or

16 (B) in a fenced yard or patio maintained by the
17 property owner.

18 SECTION 8. Subtitle C, Title 5, Business & Commerce Code, is
19 amended by adding Chapter 106 to read as follows:

20 CHAPTER 106. REGULATION OF CONSTRUCTION CONTRACTS

21 Sec. 106.001. SOLAR PANEL OPTION REQUIRED IN CERTAIN
22 SUBDIVISIONS. (a) In this section, "solar energy device" means a
23 system or series of mechanisms designed primarily to provide
24 heating or cooling or to produce electrical or mechanical power by
25 collecting and transferring solar-generated energy. The term
26 includes a mechanical or chemical device that has the ability to
27 store solar-generated energy for use in heating or cooling or in the

1 production of power.

2 (b) This chapter applies only to a contract for construction
3 of a new home in a subdivision that contains more than 50 lots on
4 which the builder has built or is offering to build new homes.

5 (c) A builder who enters into a contract to which this
6 chapter applies shall offer the home buyer an option to install a
7 solar energy device on the home for heating or cooling or for the
8 production of power.

9 SECTION 9. Subchapter D, Chapter 2305, Government Code, is
10 amended by adding Section 2305.0321 to read as follows:

11 Sec. 2305.0321. PILOT REVOLVING LOAN PROGRAM FOR SOLAR
12 ENERGY FOR SCHOOL BUILDINGS. (a) The energy office shall establish
13 a pilot program under the loanstar revolving loan program to
14 provide loans to pay the cost of installing photovoltaic solar
15 panels on public school buildings and the cost of associated energy
16 efficiency improvements to the buildings. The energy office shall
17 allocate to the pilot program at least \$4 million from the funds
18 available to the loanstar revolving loan program.

19 (b) The energy office by rule shall establish the terms
20 under which a loan may be made under the pilot program, including
21 the interest rate for repayment of pilot program loans.

22 (c) Through the pilot program, the energy office shall offer
23 to each school district the opportunity to apply for a loan to pay
24 the cost of installing photovoltaic solar panels on at least one
25 school building of the school district's choice and the cost of
26 associated energy efficiency improvements to that building. The
27 energy office by rule shall establish a procedure for determining

1 which school districts qualify for a loan under the pilot program,
2 including rules for selecting the school districts that will
3 receive a loan if there is not sufficient money set aside for pilot
4 program improvements at all school districts.

5 (d) Each school district that receives a loan shall pay for
6 the principal of and interest on the loan for each school building
7 improvement primarily from the amount budgeted for the energy costs
8 of the school at which the solar panels are installed. The school
9 district may make additional payments of the principal of or
10 interest on a loan from money rebated to it as compensation for
11 electric energy generated by the solar panels or money received as a
12 gift or grant for the purpose of paying the loan.

13 (e) This section expires September 1, 2013, and the pilot
14 program established under this section is abolished on that date.

15 SECTION 10. The Public Utility Commission of Texas shall
16 adopt rules establishing the programs required under Sections
17 39.9155 and 39.9156, Utilities Code, as added by this Act, as soon
18 as practicable.

19 SECTION 11. Not later than January 1, 2012, the Public
20 Utility Commission of Texas shall provide the methodology for
21 determining a fair market value price for surplus electricity
22 generated by distributed renewable generation, as required by
23 Section 39.916(k), Utilities Code, as added by this Act.

24 SECTION 12. (a) The Public Utility Commission shall
25 conduct a study to determine the effect of the pricing methodology
26 the commission develops under Section 39.916(k), Utilities Code, as
27 added by this Act, and shall report its findings and

1 recommendations to the 83rd Legislature not later than January 15,
2 2013. The study must include an assessment of:

3 (1) the development of the market in ERCOT for the sale
4 of surplus electricity, including the prices that retail electric
5 providers and electric utilities, municipal electric utilities,
6 and electric cooperatives in areas in which customer choice has not
7 been introduced pay for surplus electricity, and the amount of
8 surplus electricity those entities have purchased;

9 (2) the rate of adoption by customers in this state of
10 distributed renewable generation, including generation by solar
11 and other on-site renewable technologies, including a comparison of
12 adopted rates in this state compared to the adopted rates in other
13 states, the extent to which adopted rates vary by retail market
14 structure, the amount of direct installation incentives, the
15 pricing for purchasing of surplus electricity, and the extent to
16 which adopted rates are affected by the cost of other electric
17 supplies;

18 (3) a comparison of the default fair market value
19 price for surplus electricity to:

20 (A) the local market clearing prices of energy at
21 the time of day surplus electricity has been made available to the
22 grid; and

23 (B) the avoided costs of electric utilities as
24 determined in accordance with commission rules; and

25 (4) the extent to which electric service customers
26 with distributed renewable generation help avoid transmission and
27 distribution upgrades and reduce pollution, including an

1 estimation of the value of those benefits regionally.

2 (b) The study report must include any recommendations for
3 improvements in policies necessary to appropriately encourage the
4 development of distributed renewable generation technologies on
5 customer premises.

6 SECTION 13. Section 202.010, Property Code, as added by
7 this Act, applies to a deed restriction enacted before, on, or after
8 the effective date of this Act.

9 SECTION 14. Chapter 106, Business & Commerce Code, as added
10 by this Act, applies only to a contract for new home construction
11 entered into on or after the effective date of this Act. A contract
12 entered into before the effective date of this Act is governed by
13 the law in effect immediately before the effective date of this Act,
14 and that law is continued in effect for that purpose.

15 SECTION 15. The state energy conservation office shall
16 establish a program under Section 2305.0321, Government Code, as
17 added by this Act, not later than January 1, 2012.

18 SECTION 16. This Act takes effect immediately if it
19 receives a vote of two-thirds of all the members elected to each
20 house, as provided by Section 39, Article III, Texas Constitution.
21 If this Act does not receive the vote necessary for immediate
22 effect, this Act takes effect September 1, 2011.